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February 9, 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MARTIN, ALAIN

§

Application No.: 09/878,466

§

Group Art Unit: 1644

Filing Date: June 11, 2001

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Examiner: D. Saunders

For: IMMUNOSTIMULATOR ANTI-CANCER COMPOUNDS

§

Response Pursuant to 37 C.F.R. § 1.111

Dear Sir:

This response is being filed pursuant to an office action /restriction requirement that was mailed to Applicant's Attorney on October 8, 2002 with a shortened statutory period for response of one (1) month. This would result in an original due date for response of November 8, 2002 and therefore this election was timely filed since Applicant originally responded on or prior to November 5, 2002. However, in that response and election, Applicant did not properly elect species recited in claims 4 and 6 regarding the secondary immunostimulators and anti-cancer agents respectfully. This precipitated a subsequent office action/restriction requirement that was mailed to Applicant's Attorney on January 24, 2003 addressing additional restriction issues that had not been resolved by the response of November 5, 2002. This second restriction requirement also had a one (1) month period for response resulting in a due date of February 24, 2003. This second response is therefore also timely filed.

As a brief review, in the office action dated October 8, 2002 Examiner David Saunders restricted the claims of the originally filed application into three (3) inventive groups pursuant to 35 U.S.C. § 121. These were:

- I. Claims 1-6, drawn to method of cancer treatment with an immunostimulator, classified in class 514, subclass 731, for example.
- II. Claim 7, drawn to pharmaceutical compositions, classified in class 514, subclass 731, for example.

III. Claim 8, drawn to pharmaceutical compositions containing urushiol and a secondary anti-cancer agent, classified in class 514, subclass 731, for example.

Applicant, by his Attorney, elected Group I (claims 1-6) with traverse in his response of November 5, 2002. Since Applicant had elected Group I, the Examiner also required him to select a single disclosed species of immunostimulator as recited at page 3. Applicant, by his Attorney, elected urushiol as the immunostimulator of the present invention in the previously filed response of November 5, 2002.

Since Group I has been elected with traverse, the Examiner has also required Applicant to select one species from the group of secondary immunostimulators as recited in claim 4. Applicant traversed this requirement and asserted that the immunostimulators recited therein are not patentably distinct and are obvious variants of one another. Applicant will nevertheless elect the tumor-associated proteins and antigens as the secondary immunostimulator of choice.

The Examiner has also maintained that claims 5-6 and 8 are generic to a plurality of disclosed patentably distinct species comprising numerous anti-cancer agents and therefore again, Applicant was required to select a single disclosed species. However, Applicant, by his attorney, traversed this requirement and asserted the anti-cancer agents are not in fact patentably distinct and are also obvious variants of one another. Nevertheless, Applicant will elect the species "anthracyclines" as the anti-cancer agents of choice.

Respectfully submitted,

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February 19, 2003

CMB:tml

cc: Dr. Alain Martin